

**RESOLUTION
NO. 2011-04**

A RESOLUTION OF THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, IDENTIFYING CERTAIN REAL PROPERTY WITHIN THE CITY OF FELLSMERE AS THE “FELLSMERE ECONOMIC ENHANCEMENT DISTRICT” AND DESIGNATING THE FELLSMERE ECONOMIC ENHANCEMENT DISTRICT AS A “BROWNFIELD AREA” FOR THE PURPOSE OF ENVIRONMENTAL REMEDIATION, REHABILITATION AND ECONOMIC DEVELOPMENT; PROVIDING FOR COMPLIANCE WITH FLORIDA STATUTES, SECTION 166.041 AND SECTIONS 376.77 THROUGH 376.85; PROVIDING FOR NOTICE TO THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION; PROVIDING FOR RATIFICATION; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the State of Florida has provided, in Chapter 97-277 of the Laws of Florida and as codified in Sections 376.77 through 376.85 (the “Brownfields Redevelopment Act”), Florida Statutes, for designation of certain real property to be eligible for environmental remediation, rehabilitation and economic development; and

WHEREAS, in order to be eligible for environmental remediation, rehabilitation and economic development under the Brownfields Redevelopment Act, real property must be a contiguous area of one or more sites, expansion, redevelopment, or reuse of which may be complicated by actual or perceived environmental contamination, and must be designated as a “Brownfield Area” by local government resolution; and

WHEREAS, the Fellsmere Economic Enhancement District (FEED) , is real property constituting approximately 4012 acres, as depicted in Exhibit “A” attached hereto, and by reference, incorporated herein and made an integral part of this Resolution (“the Property”); and

WHEREAS, on April 21st, 2011, a public hearing on this Resolution was held near the area to be designated as a Brownfield Area to provide an opportunity for public input on the size of the area, the objectives for rehabilitation, job opportunities and economic developments anticipated, neighborhood residents’ considerations, and other relevant local concerns in accordance with Section 376.80(2)(a), Florida Statutes; and

WHEREAS, the Fellsmere City Council has considered the criteria set forth in Section 376.80(2)(a), Florida Statutes, namely:

1. Whether the Brownfield Area warrants economic development and has a reasonable potential for such activities;
2. Whether the proposed area to be designated represents a reasonably focused approach and is not overly large in geographic coverage;
3. Whether the area has potential to interest the private sector in participating in

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rehabilitation; and

4. Whether the area contains sites and parts of sites suitable for limited recreational open space, cultural or historical preservation purposes.

WHEREAS, the City Council of the City of Fellsmere has reviewed the requirements for designation of a Brownfield Area set forth in Section 376.80(2)(a), Florida Statutes, and has determined that the Property within the proposed area qualifies for designation as a Brownfield Area because the requirements have been satisfied; and

WHEREAS, the City Council of the City of Fellsmere has determined that the Property should be designated as a Brownfield Area eligible under the Brownfield Redevelopment Act, and has determined that the designation is consistent with the City of Fellsmere's Comprehensive Plan; and

WHEREAS, the procedures set forth in Section 376.80(1) of the Act, including the notice and public hearing requirements set forth in Sections 166.041 and 166.041(3)(c)2, Florida Statutes, have been complied with.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1. The above recitals are hereby ratified, confirmed and adopted as legislative findings by the City Council.

SECTION 2. That the area mapped in Exhibit "A" attached hereto and incorporated herein by reference as the "Fellsmere Economic Enhancement District (FEED)", is hereby designated a Brownfield Area for environmental remediation, rehabilitation and economic redevelopment as set forth in Sections 376.77 through 376.85 (the "Brownfields Redevelopment Act"), Florida Statutes, under the following terms and conditions:

- a. Pursuant to Section 376.80(3), Florida Statutes, the City of Fellsmere shall identify the person or persons responsible for the remediation, rehabilitation or economic development of the Brownfield Area or specific portions thereof. The identification of a person responsible shall not render the City of Fellsmere liable for the costs and liabilities associated with the site remediation, rehabilitation, economic development, source removal or risk reduction as those terms are defined in Sections 376.77 through 376.85, Florida Statutes.
- b. The designation of the Brownfield Area by this Resolution shall not, by itself, render the City of Fellsmere responsible for costs and liabilities associated with site remediation, rehabilitation, economic development, source removal or risk reduction as those terms are defined in the Brownfields Redevelopment Act or any activity required under a brownfield site rehabilitation agreement as described within the Brownfields Redevelopment Act.

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- c. The designation of the Brownfield Area by this Resolution shall not, by itself, bind the City of Fellsmere for the costs or incentives described in Section 376.84, Florida Statutes, as it relates to the redevelopment or economic development within a Brownfield Area.
- d. Nothing in this Resolution shall be deemed to limit, prohibit, or amend the authority and power of the City of Fellsmere, to designate any other real property or real properties as a Brownfield Site or Brownfield Area, or to modify, amend or withdraw the designation as established herein.

SECTION 3. In accordance with Section 376.80(1), Florida Statutes, by mailing a copy of this Resolution and attachments, the City of Fellsmere hereby notifies the Florida Department of Environmental Protection of its decision to designate this Brownfield Area for the purposes of environmental remediation, rehabilitation and economic development.

SECTION 4. All previous resolutions or parts thereof, which conflict with the provisions of this Resolution, to the extent of such conflict, are superseded and repealed.

SECTION 5. If any section, part of a sentence, paragraph, phrase or word of this Resolution is for any reason held to be unconstitutional, inoperative or void, such holding shall not affect the remaining portions hereof and it shall be construed to have been the legislative intent to pass this Resolution without such unconstitutional, invalid or inoperative part.

SECTION 6. This Resolution shall become effective immediately upon its adoption.

The foregoing Resolution was moved for adoption by Council Member Tyson and, upon being put to a vote, the vote was as follows:
Herrera

Mayor, Susan P. Adams
 Council Member Fernando Herrera
 Council Member Joel Tyson
 Council Member Sara J. Savage
 Council Member Daniel Naranjo

aye
aye
aye
aye
aye

The Mayor thereupon declared this Resolution duly passed and adopted this 5th day of May, 2011.

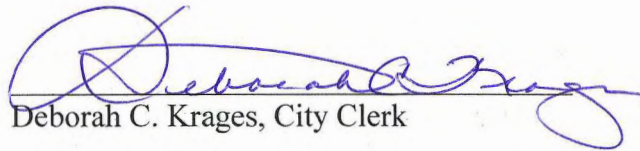
CITY OF FELLSMERE

Susan P Adams
 Susan P. Adams, Mayor

ATTEST:


Deborah C. Krages
 Deborah C. Krages, City Clerk


I HEREBY CERTIFY that Notice of the public hearings on this Resolution was published in the Press Journal, as required by the State Statutes, that the foregoing Resolution was duly passed and adopted on the 5th day of May, 2011, and the first reading was held on the 7th day of April, 2011 and the first public hearing was held on the 21st day of April, 2011, and the second and final public hearing and reading was held on the 5th day of May, 2011.



Deborah C. Krages, City Clerk

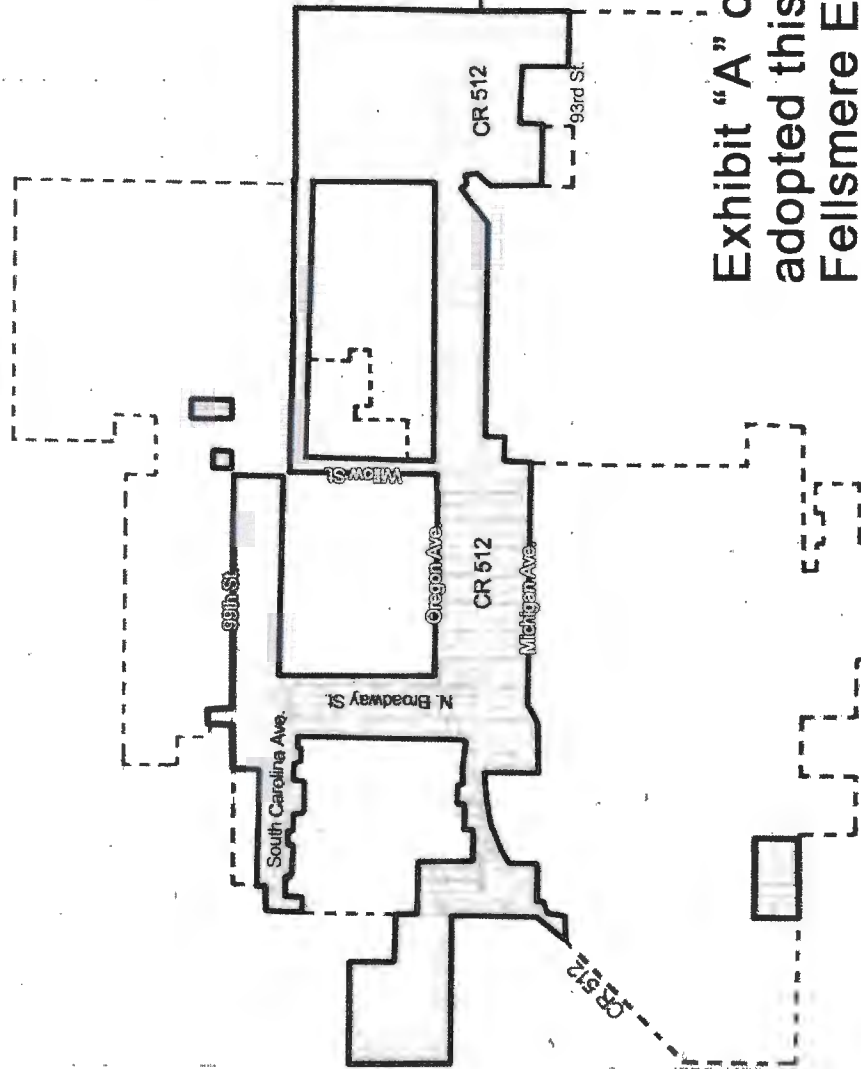
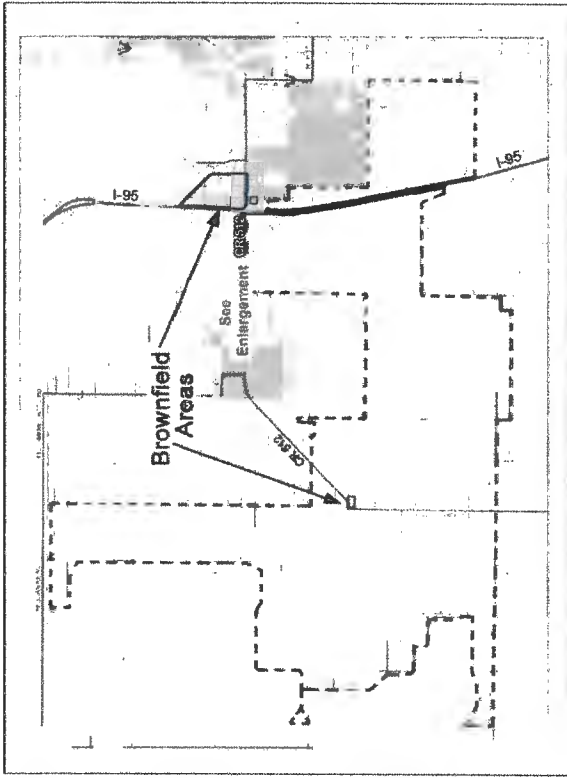


LEGEND

 **CITY OF FELLSMERE**

 **Brownfield Areas**

 **City Boundary**



**Exhibit "A" of R-2011-04
 adopted this 5th day of May, 2011
 Fellsmere Economic Enhancement District
 1,012 acres (approximate)**

The location of the various zoning district boundaries, street networks, and other land use features depicted herein are approximate. The City of Fellsmere shall assume no liability for errors, omissions, or inaccuracies in the information provided regardless of how caused, or any decisions made or actions taken by any person relying on any information or data furnished herein. Information should be verified by contacting the City of Fellsmere.

